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Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KENNETH F. PHILLIPS,	:	
	:	
Plaintiff,	:	
	:	Case No. 07 CV 3417 (DAB)
v.	:	
	:	
REED GROUP, LLC, STACEY GRACE, PRESLEY	:	
REED, PETER B. NAGEL, as Trustee of the Presley	:	
Reed 1999 Family Trust	:	
	:	
Defendants.	:	
-----	X	

DECLARATION OF RACHEL IZOWER

I, RACHEL IZOWER, declare as follows:

1. I am counsel to the Reed Group, LLC, Stacey Grace, and Peter B. Nagel, Trustee of the Presley Reed 1999 Family Trust (together the "Defendants").¹ I submit this Declaration in support of the Motion of Defendants for an Order directing Plaintiff Kenneth F. Phillips ("Plaintiff") to file a complaint in the above-captioned action and enlarging Defendants' time to answer or otherwise respond until 30 days after the complaint is served upon each.

2. Defendants expressly reserve all available objections and defenses, including, without limitation, lack of jurisdiction over the person, insufficiency of

¹ We understand that the remaining defendant, Presley Reed, has not yet been served.

process, insufficiency of service of process, improper joinder and failure to join a party under Rule 19.

3. Plaintiff initiated this action in New York State Supreme Court, County of New York by filing a summons with notice without a complaint, pursuant to New York Civil Practice Law and Rules ("CPLR") 305(b).

4. CPLR 3012(b) provides that where summons was served without a complaint, the defendant may serve a written demand for the complaint instead of answering or otherwise responding to the summons with notice.

5. On April 30, 2007, defendant Reed Group, LLC removed the action to this Court pursuant to 28 U.S.C. §1441 *et seq.* based on the diversity of the parties.

6. To date, no complaint has been served in this action. Rather than answering or otherwise responding to the summons with notice, defendants respectfully request that the Court direct Plaintiff to file a complaint and enlarge defendants time to answer or otherwise respond until 30 days after the complaint is served upon them.

Executed pursuant to 28 U.S.C. § 1746, this 7th day of May, 2007.


Rachel Izower